



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board of Veterinary Medicine, Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 150-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Veterinary Medicine
<b>Action Title:</b>	Fee increase
<b>Date:</b>	10/31/02

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

Amendments to regulation are adopted in order to increase certain fees for the regulants of the Board, including veterinarians, veterinary technicians and facilities, as necessary to provide sufficient funding for the licensing, inspection and disciplinary functions of the Board. An annual renewal fee for a veterinarian would be increased from \$125 to \$135, for a veterinary technician from \$25 to \$30 and for a veterinary facility from \$50 to \$140. Other fees would be increased correspondingly, and some miscellaneous fees will remain the same.

Since the adoption of proposed regulations, year-end figures for FY02 indicated that revenue had slightly exceeded projections and expenditures were substantially less than projected. Therefore, the Board was able to reduce the amount of fee increases without causing a deficit in FY03 or FY04.

## Changes Made Since the Proposed Stage

*Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.*

The following changes were made to the text of the proposed regulation since its publication: 1) the proposed renewal fee was reduced from \$140 for veterinarians to \$135, from \$35 for veterinary technicians to \$30 and from \$150 to \$140 for veterinary facilities. Other fees were reduced correspondingly: The renewal fee for an inactive veterinary license was reduced from \$70 to \$65 and for an inactive veterinary technician license from \$20 to \$15. The animal facility late renewal was reduced from \$50 to \$45.

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

On October 31, 2002, the Board of Veterinary Medicine adopted final amendments to 18 VAC 150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine, in order to implement a fee increase as required by law as necessary to have sufficient funds to meet expenditures.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law*

**Chapter 24** establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*

2. *To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the*

*same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

The specific statutory mandate for an increase in fees is found in § 54.1 113:

**§ 54.1-113. Regulatory Boards to adjust fees.**

*Following the close of any biennium, when the account for any regulatory Board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the Board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.*

The Office of the Attorney General has certified by letter that the Board has the statutory authority to promulgate the amended regulation and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

§ 54.1-113 of the *Code of Virginia* requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory Board shall be performed. It is necessary that each Board have sufficient revenue to cover its expenditures. It is projected that during the 2002-2004 biennium, the Board of Veterinary Medicine will incur a deficit and that the Board will continue to have a deficit through the next biennium. Since the fees from licensees will no longer generate sufficient funds to pay operating expenses for the Board, a fee increase is essential.

The purpose of the amendments is to establish fees sufficient to cover the administrative, inspection and disciplinary activities of the Board. Without adequate funding, the licensing of practitioners and facilities by the Board and the inspections required for opening or remodeling a veterinary facility could be delayed. Sufficient funding is essential to continue with routine and opening inspections, investigation of complaints, and disciplinary proceedings against practitioners who are accused of substandard care, impaired practice or unsanitary facility conditions in order to protect the public health and safety.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

Section 100 is being amended to comply with a statutory mandate for the Board to provide sufficient funding to cover expenses related to licensing, inspections, investigations and disciplinary proceedings. Annual renewal fees for a veterinarian would be increased from \$125 to \$135, for a veterinary technician from \$25 to \$30 and for a veterinary facility from \$50 to \$140. Most of the fees charged to applicants, licensees and facilities are being increased accordingly as required in the Principles for Fee Development adopted by the Department. Miscellaneous fees, such as the late renewal fee for technicians, the duplicate license fee and the returned check charge are not being amended.

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

### **1) The primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions:**

Fee increases adopted by the Board of Veterinary Medicine should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide veterinary services to the public. For example, an increase in the renewal fee will result in an additional \$10 per year for a veterinarian license and \$5 per year for a veterinary technician. It is not anticipated that the proposed fee increases will have any effect on prices for consumers.

There would be considerable disadvantages to the public if the Board took no action to address its deficit by increasing its fees to cover expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations. Likewise, the cost of a delay in issuing a facility permit would far exceed the additional application cost of \$90. If an opening is delayed, the veterinary facility would lose revenue from patients but would still incur costs for leasing, personnel and promotional advertising.

Potentially, the most serious consequence would be a reduction in or reprioritization of inspections intended to detect unsanitary or unsafe conditions in facilities and of investigation of complaints against veterinarians and veterinary technicians. In addition, there may be delays in adjudicating cases of substandard practice, resulting in potential danger to animals in the Commonwealth.

Practitioners and facilities licensed by the Board of Veterinary Medicine will experience increased renewal fees under the amended regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the Board would be unacceptable to applicants, licensees and the general public. As a special-fund agency, renewal fees pay the vast majority of the expenses of Board operations, which include inspections, investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure and education to other jurisdictions and entities, and communications with licensees about current practice and regulation.

## **2) The primary advantages and disadvantages to the agency or the Commonwealth:**

As is stated above, the consequence of not increasing fees of the Board of Veterinary Medicine would be a reduction in services and staff, resulting in delays in licensing, reductions or delays in the cases investigated and brought through administrative proceedings to a hearing before the Board and fewer inspections of veterinary facilities by the Department. The fees charged to applicants and licensees solely fund the Board and the Department of Health Professions. If higher fees are not adopted, the agency would have to cut its staff, both within the Board of Veterinary Medicine and within other divisions of the Department of Health Professions.

## **3) Other pertinent matters of interest to the regulated community, government officials, and the public:**

During the development of the NOIRA and proposed regulations, representatives of Virginia Veterinary Medicine Association have been present. While the regulated community will not welcome any increase in fees, the Board believes that it will recognize that there has not been an increase in fees for 14 years, during which time the consumer price index has risen more than 37.4 percent. For the past several years, expenditures of the Board have exceeded revenue, but surpluses of previous years have delayed the need for a fee increase. By the conclusion of FY 03, the carry-over income would be exhausted and the Board would experience a deficit that will carry over to FY 04 and beyond.

## **Public Comment**

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

Proposed regulations were published in the Virginia Register of Regulations on August 12, 2002. Public comment was requested for a 60-day period ending October 11, 2002. There was no written or electronic comment.

A Public Hearing before the Board was held on August 22, 2002, at which time there was no comment on the proposed fee increases.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

### **18 VAC 150-20-100. Fees.**

Amendments are proposed to establish the fees for licensees as follows:

- The annual renewal or initial licensure fee for an active veterinarian license will increase from \$125 to \$135.
- The annual renewal fee for an inactive veterinarian license will increase from \$50 to \$65 or approximately ½ of the active license.
- The fee for a late veterinarian renewal within the first 30 days will increase from \$25 to \$45 or approximately 1/3 of the renewal fee.
- The reinstatement application fee for a veterinarian whose license has been revoked or suspended indefinitely will increase from \$200 to \$300 to more accurately reflect the actual cost of an investigative report and hearing.
- The annual renewal or initial licensure fee for an active veterinary technician license will increase from \$25 to \$30
- The annual renewal fee for an inactive veterinary technician license will be set at \$15 or approximately ½ of the active license.
- The fee for a late technician renewal within the first 30 days will remain at \$10 or approximately 1/3 of the renewal fee.

Fees for facility registrations are proposed as follows:

- The renewal fee for a veterinary facility will increase from \$50 to \$140 to cover the cost of inspections that routinely occur every three years and cost \$300 to \$350 per inspection.
- Late fees for renewal of a facility permit will be approximately 1/3 of the renewal fee or \$45.
- The fee for reinstatement of a facility permit lapsed beyond 30 days remains at \$100 (in addition to the renewal fee).
- The fee for initial application, reinspection or a change of location (which involves an inspection) is increased from \$150 to \$200 to cover costs charged to the Board.
- Miscellaneous fees to verify a license to another state or record a change of veterinarian-in-charge are increased, consistent with other Boards within the Department and with the actual costs.

## Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability. There will be a modest impact on disposable family income, as veterinarians and veterinary technicians will experience a modest increase in the cost of licensure. Compared to other costs of doing business, licensure fees are relatively insignificant.